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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/659,746	09/11/2003	Esther Dabney	1266-27	3466
23117	7590	06/07/2010	EXAMINER	
NIXON & VANDERHYE, PC 901 NORTH GLEBE ROAD, 11TH FLOOR ARLINGTON, VA 22203				RANKINS, WILLIAM E
ART UNIT		PAPER NUMBER		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/659,746	DABNEY ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	WILLIAM RANKINS	3684	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 03 May 2010.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 20,23-25 and 38-63 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 20,23-25 and 38-63 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
     1. Certified copies of the priority documents have been received.  
     2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
     3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                  | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                         | Paper No(s)/Mail Date. _____ .                                    |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ . | 5) <input type="checkbox"/> Notice of Informal Patent Application |
|  | 6) <input type="checkbox"/> Other: _____ .                        |

## **DETAILED ACTION**

### ***Status of Claims***

Claims 20-23-25 and 38-63 are pending. Claims 20, 23-25, 38, 40, 43, 43, 52, 53, 55, 57, 58, 60, 62 and 63 have been amended.

### ***Response to Arguments***

1. Applicant's arguments, see pgs. 10-12, filed 05/03/2010, with respect to claims 20, 23-25 and 38-63 have been fully considered and are persuasive. The 103(a) rejection of 02/02/2010 has been withdrawn. In particular, applicants' arguments regarding the applicability of Gupta to the limitation of "allowing a seller to issue a direct offer to sell to the user with the highest bi if the highest bid is less than a reserve price, and allowing the seller to issue offers to sell to any bidders after listing expiration" are persuasive.
  
2. Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

3. Applicant's arguments, see pg. 10, filed 05/03/2010, with respect to claims 20, 23-25 and 38 have been fully considered and are persuasive. The objection of 02/02/2010 has been withdrawn.

4. The examiner asserts that the applicant has failed to traverse the examiner's Official Notice and that the noticed fact is now considered applicant admitted prior art. Examiner took Official Notice in claim(s) 38.

Here, per MPEP 2144.03, Official Notice is used to establish "facts" without supporting documentary evidence. In particular, said facts should (a) "serve only to 'fill in the gaps' which might exist in the evidentiary showing made by the examiner to support a particular ground of rejection" and (b) should not be "the principal evidence upon which a rejection was based". [see MPEP 2144.03A]. Further, "[i]f such notice is taken, the basis for such reasoning must be set forth explicitly" so that Applicant can "adequately traverse the rejection in the next reply after the Office action in which the common knowledge statement was made" [MPEP 2144.03B]. In this vein, "[t]o adequately traverse such a finding, an applicant must specifically point out the supposed errors in the examiner's action, which would include **stating why the noticed fact is not considered to be common knowledge or well-known in the art**. [see MPEP 2144.03C & 37 CFR 1.111(b), emphasis added]. Here, only "[i]f applicant adequately traverses the examiner's assertion of official notice, the examiner must provide documentary evidence in the next Office action if the rejection is to be maintained. [see Id. & 37 CFR 1.104(c)(2)]. "If applicant does not traverse the

examiner's assertion of official notice or applicant's traverse is not adequate, the examiner should clearly indicate in the next Office action that the common knowledge or well-known in the art statement is taken to be admitted prior art because applicant either failed to traverse the examiner's assertion of official notice or that the traverse was inadequate." [MPEP 2144.03C].

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

1. Claims 20 and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Churchill et al. (7,461,022) in view of Maroney (2002/0103740).

As per claim 20;

Churchill discloses:

In an online network-connected computer system of the type that receives requests transmitted over a network from users and responds by providing responsive

signals over said network for display by said requesting users, a method of performing computer based processes to processing online auction-style listings and provide associated responsive signals for display, said method comprising (Fig. 1, Col. 16, lines 23-30):

recording a predetermined listing end time for an auction style listing stored in a computer memory (Col. 7, lines 62-67);

receiving, from users over the network, bids with respect to said auction style listing before said listing end time (col. 9, lines 7-18);

automatically extending said predetermined end time if a bid for said auction-style listing are received near the predetermined listing end time (Col. 43, line 20-34 and Col. 44, lines 38-47); and

sending responsive data to users over the network for display, said sent responsive data indicating at least that said predetermined end time is extended, wherein said automatically extending further extends said already extended end time upon receiving an additional bid after said end time has been extended (Col. 43, lines 20-34 and Col. 44, lines 38-47); and

Churchill does not disclose:

allowing a seller to issue a direct offer to sell to the user with the highest bid if the highest bid is less than a reserve price, and allowing the seller to issue offers to any bidders after a listing expiration.

However, Maroney discloses an auction where the reserve price is not met and the auction proceeds into a negotiation stage with the highest bidder. If that negotiation

is unsuccessful, another bidder is invited to negotiate until a transfer is completed or the offering party withdraws (Abstract).

One of ordinary skill in the art would have been motivated to combine Churchill and Maroney by using a known technique to improve similar devices (methods or products) in the same way.

The examiner asserts that Churchill contained a base device or method (auction system) upon which the claimed invention can be seen as an improvement and that Maroney contained a device or method that has been improved in the same way as the claimed invention. One of ordinary skill in the art could have applied the known technique to the base device or method and the results would have been predictable to one of ordinary skill in the art.

As per claim 42;

Churchill does not disclose:

The online network-connected computer system of claim 20, wherein the auction style listing automatically ends when the sellers' direct offer to sell to the user with the highest bid is accepted.

However, Maroney discloses that the process continues until a transfer completes successfully (Abstract). The examiner asserts that Maroney implies to one of ordinary skill in the art that auction ends when the transfer is successfully completed.

One of ordinary skill in the art would have been motivated to combine Churchill, and Maroney by using a known technique to improve similar devices (methods or products) in the same way.

The examiner asserts that Churchill contained a base device or method (auction system) upon which the claimed invention can be seen as an improvement and that Maroney contained a device or method that has been improved in the same way as the claimed invention. One of ordinary skill in the art could have applied the known technique to the base device or method and the results would have been predictable to one of ordinary skill in the art.

2. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Churchill et al. (7,461,022) in view of Maroney (2002/0103740) and further in view of Leavitt (2003/0135425).

As per claim 23;

Churchill discloses:

In an online network-connected computer system of the type that receives requests transmitted over a network from users and responds by providing at least data over said network for display by said requesting users, a method of performing computer based processes to provide data over the network relating to online auction-style listings, the method comprising (Fig. 1, Col. 16, lines 23-30):

maintaining a database of items available for auction-style listing (Col. 8, lines 4-

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13);

Churchill does not disclose;

receiving requests allowing sellers to specify whether items are to be listed in said database as conditional or binding transactions;

in response to user requests received over the network, generating and sending data over the network representing displaying of (a) the conditional or binding characteristic of an item listing, and (b) with at least some other information relating to the item; and

receiving further requests representing offers to purchase the item over the network that lead to change in state of the ownership of the item; and

However, Leavitt discloses:

Seller driven commerce where sellers of goods and services communicate a conditional or binding selling offer to potential buyers (abstract) where the offers are made available to buyers through interfaces (Para. 0006) and the method and apparatus having applications on the internet (Para. 0007). The buyers have the option to accept the conditional sales offers (Para. 0006). The present invention is applicable to drugs, housing, food, travel, clothing and leisure pursuits (Para. 009).

The examiner asserts that Leavitt implies to one of ordinary skill in the art that at least some other information relating to the item is transmitted in the offer such as at least an item description and price.

Churchill does not disclose:

allowing a seller to issue a direct offer to sell to the user with the highest bid if the highest bid is less than a reserve price, and allowing the seller to issue offers to any bidders after a listing expiration.

However, Maroney discloses an auction where the reserve price is not met and the auction proceeds into a negotiation stage with the highest bidder. If that negotiation is unsuccessful, another bidder is invited to negotiate until a transfer is completed or the offering party withdraws (Abstract).

One of ordinary skill in the art would have been motivated to combine Churchill, Maroney and Leavitt by using a known technique to improve similar devices (methods or products) in the same way.

The examiner asserts that Churchill contained a base device or method (auction system) upon which the claimed invention can be seen as an improvement and that Maroney and Leavitt contained a device or method that has been improved in the same way as the claimed invention. One of ordinary skill in the art could have applied the known technique to the base device or method and the results would have been predictable to one of ordinary skill in the art.

3. Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Churchill et al. (7,461,022) in view of Grove (2002/0188551), Elias (20010034694) and Maroney (2002/0103740).

As per claim 24;

Churchill discloses:

In an online network-connected computer system of the type that receives requests transmitted over a network from users and responds by providing at least data over said network for display by said requesting users, a method of providing online auction- style listing services comprising (Fig. 1, Col. 16, lines 23-30):

maintaining at least one database of items listed for sale (Col. 8, lines 4-13);  
sending, over the network, data representing a user interface display of at least others of said items in an auction-style listing format (col. 16, lines 23-30); and

Churchill does not disclose:

sending, over the network, data representing a user interface display of at least some of said items in a classified advertising listing format;

allowing sellers, through automatic interaction with the computer system, to select item listings and flexibly change selected item listings between said classified advertising and said auction-style listing formats; and

However, Grove discloses:

A method of facilitating the display of items of multiple transaction types in a commingled listing (abstract) including fixed price items and auction priced items (Para. 0038).

Elias discloses;

An online system for a collectibles market place where sellers can flexibly change their listings between classified, barter and auction listings (Para's. 0034, 035 and 0040).

Churchill does not disclose:

allowing a seller to issue a direct offer to sell to the user with the highest bid if the highest bid is less than a reserve price, and allowing the seller to issue offers to any bidders after a listing expiration.

However, Maroney discloses an auction where the reserve price is not met and the auction proceeds into a negotiation stage with the highest bidder. If that negotiation is unsuccessful, another bidder is invited to negotiate until a transfer is completed or the offering party withdraws (Abstract).

One of ordinary skill in the art would have been motivated to combine Churchill, Grove, Elias and Maroney by using a known technique to improve similar devices (methods or products) in the same way.

The examiner asserts that Churchill contained a base device or method (auction system) upon which the claimed invention can be seen as an improvement and that Grove, Elias and Maroney contained a device or method that has been improved in the same way as the claimed invention. One of ordinary skill in the art could have applied the known technique to the base device or method and the results would have been predictable to one of ordinary skill in the art.

4. Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Churchill et al. (7,461,022) in view of Fujiwara et al. (20010027433) and Maroney (2002/0103740).

As per claim 25;

Churchill discloses:

In an online network-connected computer system of the type that receives requests transmitted over a network from users and responds by providing at least data over said network for display by said requesting users, a method of providing online transaction services comprising: storing auction-style listings in a database; allowing potential bidders to search through and request selective display of at least some of said database contents via messages exchanged over a network; accepting bids from users and providing data representing at least some information concerning said bids to corresponding sellers (See claim 23 rejection); and

Churchill does not disclose;

allowing sellers whose items have been bid upon to use the network to issue offers to sell items users have bid on to corresponding bidders while temporarily suspending auction-style listings for predetermined durations, thereby preventing other users from submitting bids on said suspended auction-style listings when corresponding unaccepted offers to sell from sellers to users for said items are outstanding; and

allowing a seller to issue a direct offer to sell to the user with the highest bid if the highest bid is less than a reserve price, and allowing the seller to issue offers to any bidders after a listing expiration.

However, Fujiwara discloses accepting an offer from a buyer and if the buyer does not respond within a predetermined time, reopening the auction (Para. 0051) and advising bidders that an offer has been accepted and preventing more bids from being

made (Para. 0015). Fujiwara also discloses that the server computer reopens the auction (Para. 0016) thereby implying that the process is automatic; and

Maroney discloses an auction where the reserve price is not met and the auction proceeds into a negotiation stage with an offer being made to the highest bidder. If that negotiation is unsuccessful, another bidder is invited to negotiate until a transfer is completed or the offering party withdraws (Abstract).

The examiner asserts that Fujiwara discloses temporarily suspending auction-style listings while trying to consummate a sale and Maroney discloses making offers to bidders when the reserve price is not met and to successive bidders when the high bidder does not consummate the sale.

One of ordinary skill in the art would have been motivated to combine Churchill, Fujiwara and Maroney by using a known technique to improve similar devices (methods or products) in the same way.

The examiner asserts that Churchill contained a base device or method (auction system) upon which the claimed invention can be seen as an improvement and that Fujiwara and Maroney contained a device or method that has been improved in the same way as the claimed invention. One of ordinary skill in the art could have applied the known technique to the base device or method and the results would have been predictable to one of ordinary skill in the art.

5. Claims 39-41 and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Churchill et al. (7,461,022) as applied to claim 20 above, and further in view of Fujiwara et al. (20010027433) and Maroney (2002/0103740).

Claim(s) 39 is/are substantially similar to claim(s) 20 and 25 and is/are therefore rejected under the same rationale.

As per claim 40;

Churchill does not disclose:

The online network-connected computer system of claim 39, wherein the method further comprises resuming the auction style listing when the user with the highest bid rejects the seller's direct offer to sell.

However, Fujiwara discloses re-opening an auction if the winning bidder has not responded within a predetermined time period (Para. 0051). The examiner asserts Fujiwara implies to one of ordinary skill in the art at the time of this invention that a lack of response from the bidder amounts to a rejection from the bidder to the offer.

One of ordinary skill in the art would have been motivated to combine Churchill, Fujiwara and Maroney by using a known technique to improve similar devices (methods or products) in the same way.

The examiner asserts that Churchill contained a base device or method (auction system) upon which the claimed invention can be seen as an improvement and that Fujiwara and Maroney contained a device or method that has been improved in the

same way as the claimed invention. One of ordinary skill in the art could have applied the known technique to the base device or method and the results would have been predictable to one of ordinary skill in the art.

As per claim 41;

Churchill does not disclose;

The online network connected computer system of claim 39, wherein the auction style listing includes a notice that there is an outstanding offer when the auction is suspended.

However, Fujiwara discloses where an information of a knockdown is sent to, and displayed, by the client computer of a winner, it is preferable to indicate that the knock-down process is under way and that no bids will be accepted. For example, the window of the screen is switched from "the auction is under way" to "the auction has been interrupted" or "the knock-down process is under way," so that any new bid will be rejected (Para. 0050).

One of ordinary skill in the art would have been motivated to combine Churchill, Fujiwara and Maroney by using a known technique to improve similar devices (methods or products) in the same way.

The examiner asserts that Churchill contained a base device or method (auction system) upon which the claimed invention can be seen as an improvement and that Fujiwara and Maroney contained a device or method that has been improved in the same way as the claimed invention. One of ordinary skill in the art could have applied

the known technique to the base device or method and the results would have been predictable to one of ordinary skill in the art.

Claim(s) 43 is/are substantially similar to claim(s) 40 and is/are therefore rejected under the same rationale.

6. Claims 54-58 are rejected under 35 U.S.C. 103(a) as being unpatentable over Churchill et al. (7,461,022) as applied to claim 25 above, and further in view of Fujiwara et al. (20010027433) and Maroney (2002/0103740).

Claim(s) 54 is/are substantially similar to claim(s) 25 and 39 and is/are therefore rejected under the same rationale including Para 0016 of Fujiwara where the server computer reopens the auction. The examiner asserts that the actions by the server computer are automatic.

Claim(s) 55 is/are substantially similar to claim(s) 40 and 54 and is/are therefore rejected under the same rationale.

Claim(s) 56 is/are substantially similar to claim(s) 41 and 54 and is/are therefore rejected under the same rationale.

Claim(s) 57 is/are substantially similar to claim(s) 25 and 42 and is/are therefore rejected under the same rationale.

Claim(s) 58 is/are substantially similar to claim(s) 43 and 54 and is/are therefore rejected under the same rationale.

7. Claim 38 is rejected under 35 U.S.C. 103(a) as being unpatentable over Churchill et al. (7,461,022) in view of Maroney (2002/0103740) and applicant admitted prior art.

As per claim 38;

Churchill discloses:

In an online network-connected computer system of the type that receives requests transmitted over a network from users and responds by providing at least data over said network for display by said requesting users, a method of providing online auction- style listing services comprising (Fig. 1, Col. 16, lines 23-30):

storing information relating to items for sale auction-style in a computer database (Col. 8, lines 4-13);

scheduling auction-style listings and associated end times associated with said listed items (Col. 7, line 62 - Col. 8, line 3); and

Churchill does not specifically disclose:

posting auction style listings on a web page for viewing by users, said auction

style listings soliciting competitive bids while concealing predetermined prices the seller will accept to sell items; and

allowing a seller to issue a direct offer to sell to the user with the highest bid if the highest bid is less than a reserve price, and allowing the seller to issue offers to any bidders after a listing expiration.

However, Churchill discloses an auction system web page for viewing by merchants and bidders (Col. 16, lines 23-36) and the setting of starting and minimum bid prices by the seller where the minimum bid price may be greater than the starting price. The examiner asserts that the minimum bid price is the reserve price (Col. 26, line 55—Col. 27, line 5).

Additionally, applicant admits that it was old and well known in the art for reserve prices to be kept from bidders.

Churchill discloses:

receiving, from users over the network, signals representing competitive bids with respect to said auction style listings (col. 9, lines 7-18); and

in response to a bid received before the end of an auction style listing, allowing authorized sellers to accept bids and unilaterally end auction-style listings before said end times (Col. 42, lines 52-60).

Maroney discloses an auction where the reserve price is not met and the auction proceeds into a negotiation stage with the highest bidder. If that negotiation is unsuccessful, another bidder is invited to negotiate until a transfer is completed or the offering party withdraws (Abstract).

One of ordinary skill in the art would have been motivated to combine Churchill, Maroney and applicant admitted prior art by using a known technique to improve similar devices (methods or products) in the same way.

The examiner asserts that Churchill contained a base device or method (auction system) upon which the claimed invention can be seen as an improvement and that Maroney and applicant admitted prior art contained a device or method that has been improved in the same way as the claimed invention. One of ordinary skill in the art could have applied the known technique to the base device or method and the results would have been predictable to one of ordinary skill in the art.

8. Claims 44-48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Churchill et al. (7,461,022) in view of Maroney (2002/0103740) and Leavitt (2003/0135425) as applied to claim 23 and further in view of Fujiwara (2001/0027433).

Claim(s) 44 is/are substantially similar to claim(s) 23 and 39 and is/are therefore rejected under the same rationale.

Claim(s) 45 is/are substantially similar to claim(s) 40 and 44 and is/are therefore rejected under the same rationale.

Claim(s) 46 is/are substantially similar to claim(s) 41 and 44 and is/are therefore rejected under the same rationale.

Claim(s) 47 is/are substantially similar to claim(s) 23 and 42 and is/are therefore rejected under the same rationale.

Claim(s) 48 is/are substantially similar to claim(s) 43 and 44 and is/are therefore rejected under the same rationale.

9. Claims 49-53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Churchill et al. (7,461,022) in view of Grove (2002/0188551), Elias (20010034694), Maroney (2002/0103740) as applied to claim 24 and further in view of Fujiwara (2001/0027433).

Claim(s) 49 is/are substantially similar to claim(s) 24 and 39 and is/are therefore rejected under the same rationale.

Claim(s) 50 is/are substantially similar to claim(s) 40 and 49 and is/are therefore rejected under the same rationale.

Claim(s) 51 is/are substantially similar to claim(s) 41 and 49 and is/are therefore rejected under the same rationale.

Claim(s) 52 is/are substantially similar to claim(s) 24 and 42 and is/are therefore rejected under the same rationale.

Claim(s) 53 is/are substantially similar to claim(s) 43 and 49 and is/are therefore rejected under the same rationale.

10. Claims 59-63 are rejected under 35 U.S.C. 103(a) as being unpatentable over Churchill et al. (7,461,022) in view of Maroney (2002/0103740) and applicant admitted prior art as applied to claim 38 and further in view of Fujiwara (2001/0027433).

Claim(s) 59 is/are substantially similar to claim(s) 38 and 39 and is/are therefore rejected under the same rationale.

Claim(s) 60 is/are substantially similar to claim(s) 40 and 59 and is/are therefore rejected under the same rationale.

Claim(s) 61 is/are substantially similar to claim(s) 41 and 59 and is/are therefore rejected under the same rationale.

Claim(s) 62 is/are substantially similar to claim(s) 38 and 42 and is/are therefore rejected under the same rationale.

Claim(s) 63 is/are substantially similar to claim(s) 43 and 59 and is/are therefore rejected under the same rationale.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William E. Rankins whose telephone number is 571-270-3465. The examiner can normally be reached on M-F 7:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kambiz Abdi can be reached on 571-272-6702. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/William E Rankins/  
Examiner, Art Unit 3684  
05/25/2010